UNITED STATES DISTRICT COURT DISTRICT OF MASSACHUSETTS

LEO WOMACK,)	
Petitioner,)	
v.)	CIVIL ACTION
)	NO. 11-40138-TSH
JAMES SABA,)	
Respondent.)	
)	

ORDER ON REPORT AND RECOMMENDATION

March 16, 2015

HILLMAN, D.J.

Upon consideration of the Report and Recommendation of Magistrate Judge Hennessy (Docket No. 38), and the Objection to the Report and Recommendation filed by Petitioner Leo Womack (Docket No. 40), the Court accepts and adopts the Report and Recommendation.

Petitioner does not object to specific portions or findings of the report, but instead requests a stay pending exhaustion of additional claims in state court and asserts that he was unaware that he could file a memorandum of law in support of his petition. However, Petitioner has previously made such requests in this case. Judge Saylor entered orders denying Petitioner's motion to stay and granting Petitioner's motion for leave to file a memorandum of law in support of the petition on March 1, 2012. (Docket No. 23). No memorandum having been filed, Judge Hennessy did not err in proceeding with the petition as it stands, and accepting Petitioner's brief to the SJC as his memorandum in support of the two properly exhausted claims. *See Copeland v.*

Mass. Dept. of Corr., 2014 WL 957669 (D. Mass. March 11, 2014) (examining arguments set

forth in an application to the SJC for Further Appellate Review in lieu of a memorandum in

support of the habeas petition).

The Court accepts and adopts the Report and Recommendation (Docket No. 38) for the

reasons set forth therein. The Petition for a Writ of Habeas Corpus under 28 U.S.C. § 2254

(Docket No. 1) is *denied*. Petitioner's Motion to Correct the Record (Docket No. 41) is *denied* as

moot.

SO ORDERED.

<u>/s/ Timothy S. Hillman</u>

TIMOTHY S. HILLMAN

DISTRICT JUDGE

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